

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HEATHER CUCCIA,

Plaintiff,

-against-

HF MANAGEMENT SERVICES LLC
d/b/a HEALTHFIRST, INC. and GENESIS
BAYUELO-PERRI,
Defendants.

Case No.

ECF CASE

**NOTICE OF REMOVAL OF
CIVIL ACTION**

TO THE CLERK OF THE COURT:

PLEASE TAKE NOTICE that defendant HF Management Services, LLC, (“Defendant”), by and through its undersigned counsel, hereby gives notice of removal of the within action from the Supreme Court of the State of New York, New York County, where it was assigned Index No. 157835/2024, to the United States District Court for the Southern District of New York, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446.

In support of its Notice of Removal, Defendant respectfully alleges as follows:

1. On or about August 7, 2023, Plaintiff Heather Cuccia filed a summons with notice entitled *Heather Cuccia v. HF Management Services LLC and Genesis Bayuelo-Perri* in the Supreme Court of the State of New York, New York County, Index No. 157835/2024 (the “State Court Action”).

2. On information and belief, Plaintiff served the Summons with Notice upon the Secretary of State for the State of New York on December 1, 2023, but the Secretary of State has never forwarded the Summons with Notice to Defendant. Plaintiff has also filed an affidavit of service averring that a copy of the Summons with Notice was mailed to Defendant’s offices at 100 Church Street, New York, New York on November 28, 2023, but that mail was not received

by Defendant. In fact, Defendant did not receive notice of this action until March 13, 2023 when Plaintiff's counsel sent it by email to Katherine Ames, Associate General Counsel for Healthfirst, Inc.

3. In accordance with the requirements of 28 U.S.C. § 1446, this Notice of Removal is timely, having been filed within thirty (30) days of March 13, 2024, the date that Defendant first received notice of the action.

4. Attached hereto as **Exhibit A** is a true and correct copy of all process, pleadings and orders that have been transmitted to Defendant in the State Court Action, pursuant to 28 U.S.C. § 1446(a).

5. Defendant seeks removal of the State Court Action to this Court on the ground that it is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1331 and it is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. §§ 1331, 1441(a), (b), (c), and 1446, in that it purports to state claims arising under federal law, specifically Title VII of the Civil Rights Act of 1964; the Civil Rights Act, 42 U.S.C. § 1981; and the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101. These statutes are mentioned in plaintiff's notice, but no factual allegations have yet been advanced in a complaint.

6. This Notice of Removal is being filed in the United States District Court for the Southern District of New York, the district court of the United States for the district and division within which the State Court Action is pending, as required by 28 U.S.C. §§ 1441(a) and 1446(a).

7. No prior application has been made for this relief.

8. Defendant Genesis Bayuelo-Perri consents to the removal of this action.

9. Upon filing of this Notice of Removal, Defendant shall promptly give written notice thereof to Plaintiff's counsel of record, Goddard Law PLLC, and shall file copies of this Notice of Removal with the Clerk of the New York State Supreme Court for the County of New York, pursuant to 28 U.S.C. §1446(d).

10. By filing this Notice of Removal, Defendant does not waive any defenses available to it at law, in equity or otherwise.

WHEREFORE, Defendant prays that this civil action be removed from the Supreme Court of the State of New York, New York County, to this Court, the United States District Court for the Southern District of New York, that this Court accept jurisdiction of this action henceforth, and that this action be placed on the docket of this Court for further proceedings as though the State Court Action had originally been instituted in this Court.

Dated: March 20, 2024
Rye, New York

DORF NELSON & ZAUDERER, LLP

By: /S/ Andrew P. Marks
Andrew P. Marks
David S. Warner
555 Theodore Fremd Avenue
Rye, New York 10580
(914) 381-7600
amarks@dorflaw.com
dwarner@dorflaw.com
Attorneys for Defendant

To: Megan S. Goddard, Esa.
Goddard Law PLLC
39 Broadway, Suite 1540
New York, NY 10006
Attorneys for Plaintiff

Exhibit A

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

-----X
HEATHER CUCCIA,

Index No.:

SUMMONS WITH NOTICE

Plaintiff,

-against -

VENUE

New York County

**HF MANAGEMENT SERVICES, LLC d/b/a
HEALTHFIRST, INC. and GENESIS
BAYUELO-PERRI,**

BASIS OF VENUE

**Defendants' Place of
Business**

Defendants.
-----X

TO THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY SUMMONED and required to serve upon Plaintiff's attorney, at the address stated below, a notice of appearance or demand for a complaint.

If this Summons with Notice was personally served upon you in the State of New York, the notice of appearance or demand for complaint must be served within twenty (20) days after such service of the Summons with Notice, excluding the date of the service. If this Summons with Notice was not personally delivered to you within the State of New York, the notice of appearance or demand for complaint must be served within thirty (30) days after service of this Summons with Notice is completed as provided by law.

PLEASE TAKE NOTICE THAT the nature of this action is employment discrimination on the basis of Plaintiff's race, color, national origin, disability, and retaliation, in violation of Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act, 42 U.S.C. § 1981; the Americans with Disabilities Act of 1990, as Amended, 42 U.S.C. §§ 12101 et seq. ("ADA"), the New York State Human Rights Law; and the New York City Human Rights Law.

The relief sought is: an amount to be determined at trial but in no event less than Two Million Five Hundred Thousand Dollars (\$2,500,000.00) together with attorneys' fees and interest thereon.

PLEASE TAKE FURTHER NOTICE that if you do not serve a notice of appearance or demand for a complaint within the applicable time limitation stated above, a judgment will be entered against you, by default, for the sum of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) together with interest, attorneys' fees and the costs and disbursements of this action.

The action will be heard in the Supreme Court of the State of New York, in and for the County of New York. The basis for the venue is Defendants' place of business.

**Dated: New York, New York
August 7, 2023**

GODDARD LAW PLLC
Attorneys for Plaintiff

By: /s/ Megan S. Goddard
Megan S. Goddard, Esq.
39 Broadway, Suite 1540
New York, New York 10006
(646) 964-1178
Megan@goddardlawnyc.com

**TO: HF MANAGEMENT SERVICES, LLC d/b/a
HEALTHFIRST, INC.
100 Church Street, #17
New York, New York 10007**

**GENESIS BAYUELO-PERRI,
c/o HF MANAGEMENT SERVICES, LLC d/b/a
HEALTHFIRST, INC.
100 Church Street, #17
New York, New York 10007**

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

ATTORNEY(S) GODDARD LAW PLLC

39 BROADWAY SUITE 1540 NEW YORK, NY 10006 | PH: (646) 504-8363

Index Number: 157835/2023

Date Filed: 08/07/2023

HEATHER CUCCIA

VS

Plaintiff

HF MANAGEMENT SERVICES LLC D/B/A HEALTHFIRST INC, ET AL

Defendant

STATE OF NEW YORK, COUNTY OF NASSAU, SS.:

AFFIDAVIT OF SERVICE

John Savage, being sworn deposes and states that, the Deponent is not a party herein, is over the age of 18 years and resides in the State of New York.

That on 11/16/2023, at 1:05 PM at 414 S SERVICE ROAD 262, PATCHOGUE, NY 11772, Deponent served the within **Summons with Notice with Notice of Commencement of Action Subject to Mandatory Electronic Filing**, with the index number and the filing date of the action were endorsed upon the face of the papers so served herein. On: GENESIS BAYUELO - PERRI, therein named, (hereinafter referred to as "subject").

By delivering thereat a true copy of each to **JANE DOE** a person of suitable age and discretion.

Said premises is subject's **actual place of business / employment** within the state. A description of **JANE DOE** is as follows:

Sex: Female **Color of skin:** White **Color of hair:** Brown **Age:** 30-45
Height: 5ft4in-5ft8in **Weight:** 161-200 Lbs. **Other :**

In addition, the residence of the subject was confirmed by DMV verification 623N.Y.S.2d932. The recipient described above would not provide her full name.

On **November 17, 2023**, service was completed by mailing a true copy of the above stated document(s) to the subject's above stated address, in a First Class postpaid properly addressed envelope marked "Personal and Confidential" in an official depository under the exclusive care and custody of the United States Post Office in the State of New York .

I asked the person spoken to, on whether the subject was in active military service or financially dependent upon any one who is in the military service of the United States or of the State of NEW YORK in any capacity whatever and received a negative reply. The source of my information and belief are the conversations above narrated. Upon that information and belief I assert that the recipient is not in the military service of NEW YORK State or of the United States as that term is defined in either the State or in Federal statutes.

Sworn to before me on November 17, 2023

Denise Bedell

Notary Public - State of New York

No. 01BE6091831; Qualified in Nassau County

My Commission Expires May 5, 2027



Client's File No.:

Process Server, Please Sign

John Savage

Lic#

Job #: 2365133

14.8

AFFIDAVIT OF SERVICE

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

GODDARD LAW PLLC 39 BROADWAY SUITE 1540 NEW YORK, NY 10006

Client's File No.: _____
Index Number: 157835/2023
Date Filed: August 7, 2023

HEATHER CUCCIA

Plaintiff

VS

HF MANAGEMENT SERVICES LLC D/B/A HEALTHFIRST INC, ET AL

Defendant

STATE OF NEW YORK, COUNTY OF New York SS:

SECRETARY OF STATE

Steve Avery, being duly sworn, deposes and says: that deponent is not a party to this action, is over 18 years of age and resides in the State of New York.

That on **12/1/2023** at **9:00 AM** at 1 Commerce Plaza, Albany, New York 12260 the office of the Secretary Of State, of the State of New York, deponent served 2 true copies of a **Summons with Notice with Notice of Commencement of Action Subject to Mandatory Electronic Filing**

on **HF MANAGEMENT SERVICES LLC D/B/A HEALTHFIRST INC**
(Defendant/Respondent)

Said service was effected in the following manner;
By delivering to an leaving with **NANCY DOUGHERTY** authorized agent in the office of the Secretary of the State, State of New York, personally at the office of the Secretary of State, of the State of New York, two (2) true copies thereof and at that time of making such service, deponent paid said Secretary of State a fee of \$40.00.
That said service was made pursuant to **303 Limited Liability Company Law**

Description:

Gender: Female **Race/Skin: White** **Age: 60** **Weight: 100-130 Lbs.** **Height: 5ft0in-5ft3in** **Hair:**
Black **Glasses:No** **Other:**

Sworn to before me on December 5, 2023

Samuel Mlotok
Notary Public - State of New York
No. 01ML6317724
Qualified in Nassau County
My Commission Expires April 16, 2027



Steve Avery
Server Lic #
Job# 2367069
Cust.File#

AFFIDAVIT OF MAILING

14.8

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Index #: 157835/2023

Court Date: _____

Date Filed: August 7, 2023

File No.: _____

ATTORNEY(S) GODDARD LAW PLLC PH: (646) 504-8363
39 BROADWAY SUITE 1540 NEW YORK, NY 10006

HEATHER CUCCIA

Plaintiff

vs.

HF MANAGEMENT SERVICES LLC D/B/A HEALTHFIRST INC, ET AL

Defendant

STATE OF NEW YORK, COUNTY OF NEW YORK SS.:

CHRISTOPHER J. KLEIN, being duly sworn deposes and says: Deponent is not a party herein, is over 18 years of age and resides in the State of New York.

On 11/28/2023, deponent completed service by placing a copy of the

Summons with Notice with Notice of Commencement of Action Subject to Mandatory Electronic Filing

in a 1st Class postpaid properly addressed envelope marked "Personal and Confidential" which was deposited in an official depository under the exclusive care and custody of the United States Post Office in the State of New York, addressed to HF MANAGEMENT SERVICES LLC D/B/A HEALTHFIRST INC

The index number and the filing date of the action were endorsed upon the face of the papers so served herein.

at 100 Church Street, Suite #17, NEW YORK, NY 10007

X This mail was also sent by Certified/Registered Mail and/or RRR receipt no.

9407136105442740170087

Sworn to before me on November 28, 2023

Samuel Mitok
Notary Public - State of New York
No. 01ML6317724
Qualified in Nassau County
My Commission Expires April 16, 2027



CHRISTOPHER J. KLEIN

Server's Lic # 1188546
Job# 2367071
Cust.File #

AFFIDAVIT OF DUE DILIGENCE - ATTEMPTS TO LOCATE AND/OR SERVESUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Index/Case #: 157835/2023

Court Date:

Filing Date: August 7, 2023

Client: Goddard Law PLLC

Attorney:

Plaintiff

HEATHER CUCCIA

Defendant

VS

HF MANAGEMENT SERVICES LLC D/B/A HEALTHFIRST INC, ET AL

STATE OF NEW YORK, COUNTY OF NEW YORK, SS.:

CHRISTOPHER J. KLEIN, being duly sworn, deposes and says: that deponent is not a party to this action, is over the age of eighteen (18) years and resides in the State of New York ; deponent attempted to serve the within Summons with Notice with Notice of Commencement of Action Subject to Mandatory Electronic FilingUpon HF MANAGEMENT SERVICES LLC D/B/A HEALTHFIRST INC

the defendant / respondent therein named, and that after due search, careful inquiry and diligent attempts the deponent was unable to effect process upon the person being served because of the following reason(s):

Date/Time: 11/28/2023 16:06:00 Attempt at: 100 Church Street, Suite #17, NEW YORK, NY 10007 Results: MUST BE SERVED BY MAIL AS PER DOMINIQUE COHEN

Sworn to before me on November 29, 2023Samuel Mlotok
Notary Public - State of New York
No. 01ML6317724
Qualified in Nassau County
My Commission Expires April 16, 2027

CHRISTOPHER J. KLEIN

Lic# 1188546
JobID 2366818
Client ID

NYSCEF DOC. NO. 5

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK

ATTORNEY(S) GODDARD LAW PLLC

39 BROADWAY SUITE 1540 NEW YORK, NY 10006 | PH: (646) 504-8363

Index Number: 157835/2023

Date Filed: 08/07/2023

HEATHER CUCCIA

Plaintiff

VS

HF MANAGEMENT SERVICES LLC D/B/A HEALTHFIRST INC, ET AL

Defendant

STATE OF NEW YORK, COUNTY OF NASSAU, SS.:

AFFIDAVIT OF SERVICE

John Savage, being sworn deposes and states that, the Deponent is not a party herein, is over the age of 18 years and resides in the State of New York.

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By delivering thereat a true copy of each to **JANE DOE** a person of suitable age and discretion.

Said premises is subject's **actual place of business / employment** within the state. A description of **JANE DOE** is as follows:

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Height: 5ft4in-5ft8in **Weight:** 161-200 Lbs. **Other :**

In addition, the residence of the subject was confirmed by DMV verification 623N.Y.S.2d932. The recipient described above would not provide her full name.

On **November 17, 2023**, service was completed by mailing a true copy of the above stated document(s) to the subject's above stated address, in a First Class postpaid properly addressed envelope marked "Personal and Confidential" in an official depository under the exclusive care and custody of the United States Post Office in the State of New York .

I asked the person spoken to, on whether the subject was in active military service or financially dependent upon any one who is in the military service of the United States or of the State of NEW YORK in any capacity whatever and received a negative reply. The source of my information and belief are the conversations above narrated. Upon that information and belief I assert that the recipient is not in the military service of NEW YORK State or of the United States as that term is defined in either the State or in Federal statutes.

Sworn to before me on November 17, 2023

Denise Bedell
Notary Public - State of New York
No. 01BE6091831; Qualified in Nassau County
My Commission Expires May 5, 2027



Client's File No.:

Process Server, Please Sign
John Savage

Lic#

Job #: 2365133